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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 MICHAEL PATRICK DUFFY,

11 Petitioner,

12 vs.

13 NEVADA DEPARTMENT OF
14 CORRECTIONS, *et al.*,

15 Respondents.
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Case No. 2:15-cv-00148-APG-CWH

ORDER

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18 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254
19 by a Nevada state prisoner. Neither a filing fee nor an application to proceed *in forma pauperis* was
20 submitted with the petition. When filing a habeas action, petitioner must either submit the \$5.00
21 filing fee for habeas petitions or an application to proceed *in forma pauperis*. Due to the lack of an
22 *in forma pauperis* application or filing fee, the present action will be dismissed without prejudice to
23 the filing of a new petition in a new action with a pauper application with all required attachments.
24 It does not appear from the papers presented that a dismissal without prejudice would result in a
25 promptly-filed new petition being untimely. In this regard, petitioner at all times remains
26 responsible for calculating the running of the limitations period as applied to his case and properly
27 commencing a timely-filed habeas corpus action.
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1 **IT THEREFORE IS ORDERED** that this action is **DISMISSED** without prejudice to the
2 filing of **a new petition in a new action**.

3 **IT IS FURTHER ORDERED** that the Clerk of the Court shall send petitioner two copies
4 of an *in forma pauperis* application form for a prisoner, one copy of the instructions for the same,
5 two copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of instructions for the
6 same.

7 **IT IS FURTHER ORDERED** that petitioner may file a new petition in a new action, but
8 he may not file further documents in this action.

9 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**. Reasonable
10 jurists would not find the dismissal of the improperly-commenced action without prejudice to be
11 debatable or wrong.

12 **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly.

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14 Dated: January 29, 2015.

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18 UNITED STATES DISTRICT JUDGE
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